IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10384 of 1996

Between:

Public Telephones Allottees & Operators Welfare Association,
Vijayawada, Society No.187 of 1996 Registered under Act XXI

of 1860, represented by its Secretary.

..... PETITIONER

AND

1 The General Manager, Telecom District, Vijayawada.
2 The Senior Accounts Officer (TR), Office of the General Manager,
Telecom District, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of writ of Mandamus declaring that the demands for additional security deposits made and notices dated 17/02/1996 issued by the 2nd respondent to
L. Nageswara Rao and Ch.N.V. Ravi Kumar and similar notices to other members of petitioner are illegal, arbitrary, improper and violative of Articles 14 and 21 of the Constitution of India and the demands are unenforceable and ineffective.

For the Petitioner: MR.P.V.RAMA SARMA, Advocate.

For the Respondents: MR.A.RAJASEKHAR REDDY, Standing Counsel for Telecom

The Court made the following :

ORDER:

This writ petition is filed, seeking to declare the notices issued by the second respondent-Senior Accounts Officer (TR), Office of the General Manager, Telecom District, Vijayawada, in D.No.29-5-23 and D.No.20-8-5/8, dated 17-5-1996, demanding the Public Telephone (PT) operators to pay additional security deposit, as illegal and arbitrary.

The petitioner claims to be Public Telephones Allottees & Operators Welfare Association, Vijayawada, which was registered as a Society. It is stated that the second respondent, by the impugned notices, demanded STD PT operators under his jurisdiction, namely Mr. L. Nageswara Rao and Mr. Ch.N.V. Ravi Kumar, allotted with telephone Nos.430994 and 433031, to pay additional security deposit of Rs.16,000/- and Rs.22,000/- respectively on or before 31-5-1996, lest the telephones would be disconnected on 03-6-1996. The said notices, it is stated, are illegal and arbitrary, inasmuch as they are unilaterally issued without any basis, and more so when no show-cause notice was issued to the PT operators prior to the demand. It is stated that though the petitioner made representations to the respondents in that respect, they were not favourably considered. Hence, the writ petition.

Denying the allegations of the petitioner, a counter-affidavit is filed on behalf of the respondents stating that the STD/PCO's are the agents of the Telecom Department and they are governed by the terms and conditions of the agreement entered into with the Department. It is stated that the Ministry of Communications, Government of India has taken a policy decision regarding review of policy on STD PTs. vide letter

dated 24-7-1993, and as per the guidelines issued thereunder, the amount of security deposit will be at Rs.5,000/- or an amount equal to the average monthly revenue collected by PT, whichever is higher; and the average monthly revenue will be calculated on the basis of six months bills. It is also stated that Mr. L. Nageswara Rao and Mr. Ch.N.V. Ravi Kumar, who were allotted with STD PTs., as per the agreement, dated 08-02-1995, entered with the Department, have also undertaken to pay the enhanced security deposit as and when demanded, and that the demands for their additional security deposit, were made on the basis of their average revenue collections, and therefore, the enhancement of their security deposits cannot be said to be arbitrary. There are no merits in the writ petition. Thus, the respondents pray to dismiss the writ petition.

Heard the leaned counsel for the petitioner and the learned Standing Counsel for the respondents.

What is the security deposit that should be collected, and whether it can be reduced or increased, being essentially a policy matter, falling exclusively within the domain of the administrative authorities, this Court in exercise of its power under Article 226 of the Constitution of India, does not venture into scrutinizing such policy matters unless it is demonstrated that the policy framed by the administrative authorities is fraught with illegality and unconstitutionality.

In ***Delhi Science Forum v. Union of India***, the apex Court while dealing with the aspect of policy, held thus:

> Polices which have been adopted by the Parliament cannot be tested in Courts of Law. The Courts cannot express their opinion as to whether at a particular juncture or under a particular situation prevailing in the country any such national policy should have been adopted or not. There may be views and views, opinions and opinions which may be shared and believed by citizens of the country including the representatives of the people in the Parliament. But that has to be sorted out in the Parliament which has to approve such policies. Courts have their limitations because these issues rest with the policy makers for the nation. No direction can be given or is expected from the Courts unless while implementing such policies, there is violation or infringement of any of the Constitutional or statutory provision. The new Telecom Policy was placed before the Parliament and it shall be deemed that Parliament has approved the same. Courts cannot review and examine as to whether said policy should have been adopted. Of course, whether there is any legal or Constitutional bar in adopting such policy can certainly be examined by the Court.

In the instant case, Ministry of Communications, Government of India has taken a policy decision regarding review of policy on STD PTs. vide letter dated 24-7-1993,

and as per the guidelines issued in pursuance thereof, the amount of security deposit in respect of PT operators will be fixed at Rs.5,000/- or an amount equal to the average monthly revenue collected by PT., calculating on the basis of six months bills, whichever is higher, and in accordance with the said guidelines, the demands were made by the second respondent under the impugned notices, and no exception can be taken thereto.

Therefore, the contention of the petitioner that the demands made by the second respondent directing Mr. L. Nageswara Rao and Mr. Ch.N.V. Ravi Kumar to pay additional security deposit of Rs.16,000/- and Rs.22,000/- respectively, are illegal and arbitrary, cannot be sustained, as they were made in pursuance of the policy decision of the Ministry of Communications, Government of India, and this Court in exercise of its power under Article 226 of the Constitution of India, does not go into the validity of the policy decision, which is otherwise vested in the expert administrative authorities.

For the foregoing reasons, the writ petition has no merit and is, accordingly dismissed. No costs. However, as the learned counsel for the petitioner submitted that some time may be granted to the PT operators, namely Mr. L. Nageswara Rao and Mr. Ch. N.V. Ravi Kumar to pay the additional security deposit amounts as demanded in the impugned notices, dated 17-5-1996, issued by the second respondent, four weeks time is granted to them to deposit the amount, from today. Till such time, the respondents shall not disconnect telephones in question.

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N.V. RAMANA, J

Date: 19-11-2004

Svv

To

1 The General Manager, Telecom District, Vijayawada.
2 The Senior Accounts Officer (TR), Office of the General Manager, Telecom District, Vijayawada.

3 Two CD copies.